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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,151	12/18/2000	Vikrant H. Desai	FORE-80	6773

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EXAMINER
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NGUYEN, VAN KIM T

ART UNIT	PAPER NUMBER
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2661

DATE MAILED: 02/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/740,151

Applicant(s)

DESAI, VIKRANT H.

Examiner

Van Kim T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

This Office Action is responsive to communications filed on December 18, 2000.

#### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Sakamoto et al (US 6,075,767).

Regarding claims 1-3 and 11-12, as shown in Figures 1-18, Sakamoto discloses an apparatus for transferring data on an ATM network comprising, a switch (2) comprising a primary component (1-b) for switching the data through the switch; a secondary component (1-a) for switching the data through the switch if the primary component fails; and a mechanism includes a cell recording module (11) for counting the data that has been received, transmitted or dropped by the switch without including any redundancy in the counting of the data due to the primary component and secondary component both able to switch (col. 2: lines 5-50; and col. 7: line 39 – col. 13: line 34).

Regarding claims 4 and 13, Sakamoto also discloses the module collects cell counts for each connection through the switch (col. 9: lines 3-20).

Regarding claims 5 and 14, Sakamoto also discloses the module counts cell counts from either the primary component or the secondary component depending upon which one is actually

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having the connection through the switch, otherwise known as an active component (col. 3: lines 1-3; col. 9: lines 21-50; and col. 10: line 57 – col. 11: line 21).

Regarding claims 6 and 15, Sakamoto also discloses the primary component and the secondary component each have physical interfaces (15) and a logical interface (21) for both components that maintains a switchover count in a switchover event, and each physical interface counts the number of cells of the connection that have passed through it (col. 9: line 3 – col. 11: line 21).

Regarding claims 7 and 16, Sakamoto also discloses the logical interface increases its switchover count whenever it receives a switchover event and clears cell counts on the active component (col. 10: lines 46-52).

Regarding claims 8 and 17, Sakamoto also discloses the module counts the cell counts of the logical interface on the active component for each connection in predetermined intervals (col. 10: line 35-41 and 47-50).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-10 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakamoto (US 6,075,767), as applied to claims 1-8 and claims 11-17 above.

Sakamoto discloses reviewing the logical interface at each interval to determine the switchover count (col. 10: line 25 – col. 11: line 21).

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Though Sakamoto does not explicitly call for determining whether the switchover count increased since a previous interval, but since performance information, e.g., count value accumulated in the old counter area are collected and reported to the control part 4 (col. 10: line 43-46), it would have been obvious to one of ordinary skill in the art at the time the invention was made to decide whether the switchover count increased since a previous interval, using the available information.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Rao et al (US 6,674,756); Chui et al (US 6,512,769); Izawa et al (US 6,477,141); Sakayori (US 6,400,691); Hiscock et al (US 6,347,073); Worster (US 6,307,834); Hiscock et al (US 6,195,351); Minami (US 6,141,326); Lau (US 6,052,373); Vaman et al (US 6,011,780);


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Van Kim T. Nguyen whose telephone number is 703-305-7692. The examiner can normally be reached on 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas W. Olms can be reached on 703-305-4703. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

vkn



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